

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

United States District Court  
Southern District of Texas  
ENTERED

APR 04 2011

GUADALUPE MONTANA,  
Individually, As Representative  
of the Estate of MARIA GUADALUPE  
CABELLO DE MONTANA, Deceased,  
And As Next Friend of A.M.C., minor,  
et al.,

Plaintiffs,

v.

GENERAL MOTORS, LLC, and GARCIA  
NEW & USED TIRES,

Defendants.

CIVIL ACTION NO. B-10-285

David J. Bradley, Clerk of Court

ORDER

BE IT REMEMBERED, that on April 4, 2011, the Court GRANTED Defendant's Motion to Withdraw its Opposition to Motion to Remand, Dkt. No. 24, and Plaintiffs' Motion to Remand. Dkt. No. 9.

Plaintiffs initiated this products liability action by filing their Original Petition on August 11, 2010. Dkt. No. 1 Ex. A-2. In their Amended Petition filed October 21, 2010, Plaintiffs named General Motors LLC (General Motors) and "Garcia New & Used Tires" as Defendants. Dkt. No. 1 Ex. A-5 at 2. The Amended Petition alleges that Defendant Garcia's New & Used Tires is a "private company" doing business and having its principal place of business in Texas. *Id.* at 2.

On November 19, 2010, General Motors removed this case under 28 U.S.C. § 1441 and alleged that Defendant Garcia's New & Used Tires was improperly joined as a defendant to defeat diversity jurisdiction under 28 U.S.C. § 1332. Dkt. No. 1 at 4–5. Plaintiffs moved to remand this case on December 16, 2010, arguing that Defendant Garcia's New & Used Tires was not improperly joined and that complete diversity of citizenship does not exist. Dkt. No. 9. General Motors filed its response

on January 5, 2011, Dkt. Nos. 10–11, and Plaintiffs replied on January 24, 2011. Dkt. No. 12.

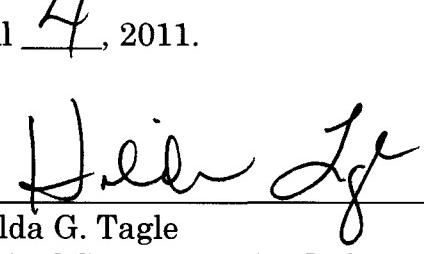
On February 23, 2011, General Motors moved to strike Plaintiffs' reply to the motion to remand or in the alternative to file a surreply. Dkt. No. 14. Plaintiffs moved for leave to supplement their motion to remand or alternatively to conduct jurisdictional discovery on March 15, 2011. Dkt. No. 20.

In its motion filed March 31, 2011, General Motors moves to withdraw its opposition to Plaintiffs' motion to remand. Dkt. No. 24. It states that it "does not now oppose Plaintiffs' motion to remand." *Id.* at 2. Consequently, the Court finds that Plaintiffs' motion to remand, Dkt. No. 9, is unopposed.

WHEREFORE, the Court **GRANTS** Defendant's Motion to Withdraw its Opposition to Motion to Remand. Dkt. No. 24. The Court **ORDERS** that Defendant's Response to Plaintiffs' Motion to Remand and appendix to Defendant's Response to Plaintiffs' Motion to Remand, Dkt. Nos. 10 and 11, are **WITHDRAWN**.

The Court **GRANTS** Plaintiffs' Amended Motion to Remand. Dkt. No. 9. The Court **ORDERS** this case **REMANDED** to the 357th Judicial District Court of Cameron County, Texas. 28 U.S.C. § 1447(b) (2006). The Court instructs the District Clerk to close this case.

DONE at Brownsville, Texas, on April 4, 2011.

  
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Hilda G. Tagle  
United States District Judge